

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6765

TERESA B. HUGGINS,

Petitioner - Appellant,

versus

VIRGINIA DEPARTMENT OF CORRECTIONS; TAMMY
ESTAP, Warden,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Richmond. David G. Lowe, Magistrate
Judge. (3:03-cv-00855-DGL)

Submitted: August 31, 2006

Decided: September 8, 2006

Before MICHAEL, MOTZ, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Teresa B. Huggins, Appellant Pro Se. Robert H. Anderson, III,
OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Teresa B. Huggins seeks to appeal the magistrate judge's order denying relief under 28 U.S.C. 2254 (2000).¹ We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on March 31, 2005. The notice of appeal was filed on June 13, 2005, seventy-four days later.² Because Huggins failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral

¹The parties consented to proceed before a United States magistrate judge. See 28 U.S.C. § 636(c) (2000).

²For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED